

AO 91 (Rev. 11/11) Criminal Complaint

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UNITED STATES DISTRICT COURT

United States Courts Southern

District of Texas

FILED

October 19, 2023

for the
Southern District of Texas

Nathan Ochsner, Clerk of Court

United States of America

v.

SOHAIB ABUAYYASH

Case No. 4: 23-MJ-2018

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 24, 2023 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 922(g)(5)(B)

Unlawful possession of a firearm by an alien who has been admitted to the
United States under a nonimmigrant visa.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Keith Fogg, Special Agent, FBI

Printed name and title

Submitted by reliable electronic means, sworn to, signature attested telephonically per Fed. R. Crim. P. 4.1. And probable
Cause found:

Date: October 19, 2023

Judge's signature

City and state: Houston, Texas

Christina A. Bryan, U.S. Magistrate Judge

Printed name and title

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to this instrument are
prohibited by court order

4:23-mj-2018

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Keith Fogg, being duly sworn, do hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent (“SA”) with the Federal Bureau of Investigation and have been so employed in that capacity since June 2010. Through my training and experience, I have become familiar with the tools used in the investigation of such violations, including undercover operations, surveillance, evidence collection, and conducting interviews of witnesses, informants, and others with knowledge of the offense. I have participated in the execution of multiple federal search warrants. In addition, I have consulted with FBI Special Agents and other members of the Joint Terrorism Task Force (JTTF) in the preparation of this affidavit. These individuals have received training in the preparation, presentation, and the service of criminal complaints and arrest and search warrants, and have been involved in the investigation of numerous types of offenses against the United States, including crimes involving possession of firearms by prohibited persons and providing material support or resources to designated foreign terrorist organization.

2. I make this affidavit in support of an application for a complaint and arrest warrant for **Sohaib Abuayyash**, a 20-year-old male, for a violation of **18 U.S.C. § 922(g)(5)(B)** (Possession of a Firearm by a Prohibited Person). This affidavit does not include all facts known to me, but rather contains facts sufficient to support the issuance of a criminal complaint and arrest warrant.

3. Title 18 U.S.C. §922(g)(5)(B) states: It shall be unlawful for any person who, being an alien, except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa, to ship or transport in interstate or foreign commerce, or possess in or

affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce. Subsection (y)(2) provides an exception for aliens under nonimmigrant visas who are admitted to the United States for lawful hunting or sporting purposes or who are in possession of a hunting license or permit lawfully issued in the United States, which **ABUAYYASH** does not possess.

STATEMENT OF FACTS

4. The United States, including the FBI, is conducting a national security investigation of **Sohaib S Abuayyash (ABUAYYASH)**, a 20-year-old citizen of Jordan, present in the United States on a nonimmigrant visa, for possession of a firearm by a prohibited person. Through the logical course of the investigation, it was discovered that **ABUAYYASH** has been in direct contact with others who share a radical mindset, has been conducting physical training, and has trained with weapons to possibly commit an attack.

Subject's Immigration History

5. **ABUAYYASH** arrived in the United States on June 2, 2016 from Jordan on a B2 visa, commonly referred to as a tourism visa and subsequently departed the United States on August 21, 2016 via Chicago O'Hare International Airport bound for Amman Jordan on Royal Jordanian Flight 264. **ABUAYYASH** again entered the United States on June 09, 2019, on a flight from France, under a nonimmigrant B2 visa, commonly referred to as a tourism visa, which he applied for on January 25, 2019 in Jerusalem. **ABUAYYASH** traveled on Palestine Passport 4717331 and indicated he was a citizen of Palestine. **ABUAYYASH** had a flight scheduled to depart the United States from George Bush Intercontinental airport to Charles-de-Gaulle airport on July 30, 2019, however **ABUAYYASH** did not board the flight. **ABUAYYASH's** visa expired on August 1, 2019. On or about January 30, 2020, **ABUAYYASH** filed an I-589,

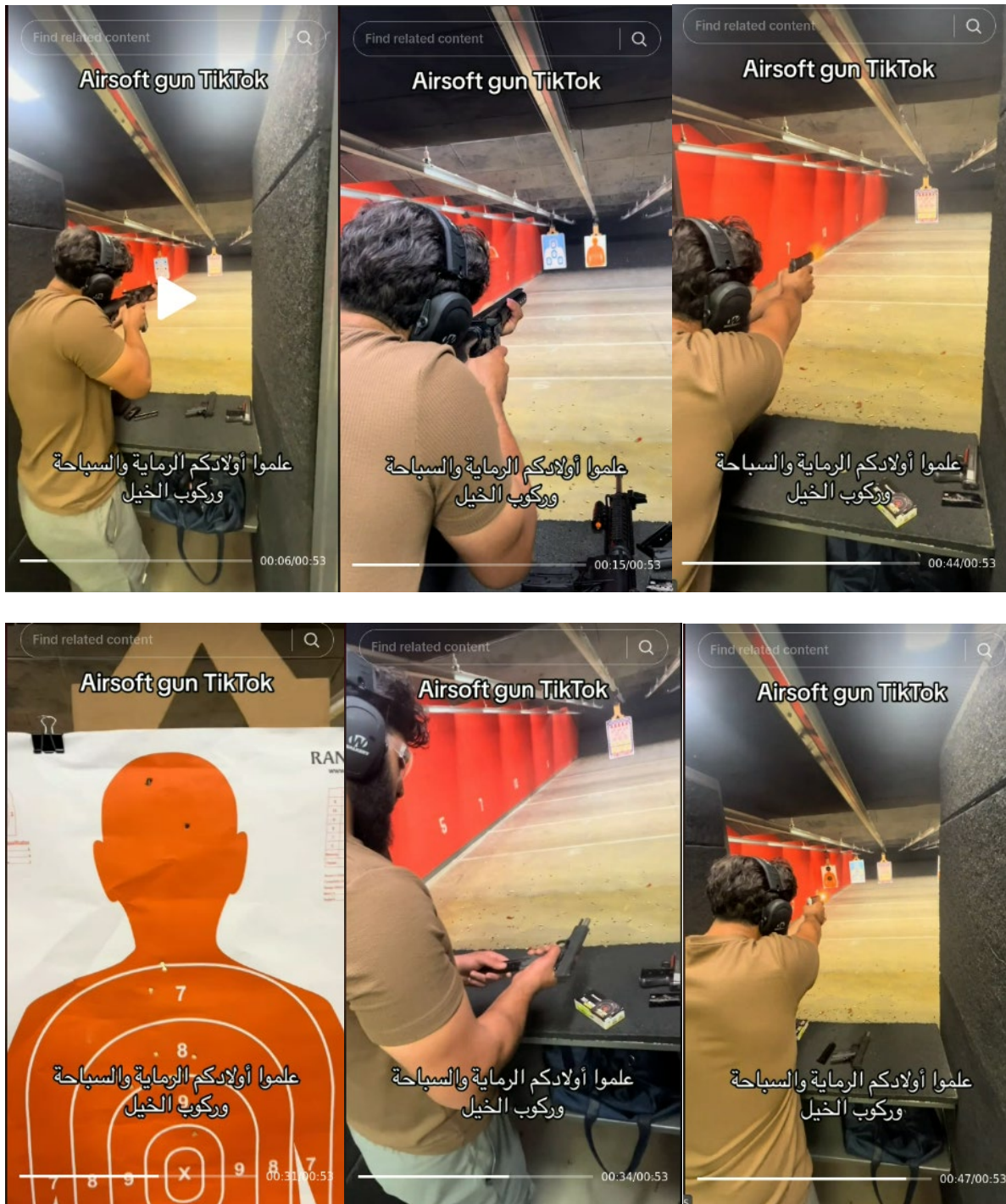
Application for Asylum and for Withholding of Removal which is still pending. **ABUAYYASH** indicated he is a citizen of Jordan. On or about August 02, 2023, **ABUAYYASH's** I-65, Application for Employment Authorization was approved, allowing him to work until August 1, 2025. At no time has **ABUAYYASH's** status allowed him to possess or use firearms or ammunition.

SUBJECT's Possession of Firearms

6. According to records provided by Meta Platforms Inc. for Instagram UID 57841712858, user name sohaib.abuayyash (Instagram 2858) indicated the account was created on January 12, 2023 by Sohaib, telephone number 1-[REDACTED]-7305 (7305). Records received from T-Mobile indicate the registered owner of 7305 is **ABUAYYASH**, [REDACTED], [REDACTED], Houston, Texas, 77429 since January 31, 2021. **ABUAYYASH's** Texas Drivers License number [REDACTED] lists address [REDACTED], Houston, Texas, 77429.

7. On or about August 18, 2023, FBI conducted open-source research and identified a video posted to Instagram 2858 which appears to have been originally posted to TikTok username sohaibboom on or about August 11, 2023. Writer reviewed the video which began with an individual, later identified as **ABUAYYASH**, wearing a brown shirt, gray sweat pants with pockets, black hair and black beard. **ABUAYYASH** is on a firing line possessing a black AR style rifle and there are two handguns and 2 magazines on the table in front of him. **ABUAYYASH** fires approximately 6 rounds from the AR style rifle. At 16 seconds the video appears to have been spliced as there is now a different AR style rifle with a magazine inserted in the magazine well and 3 magazines on the table. **ABUAYYASH** is still possessing what appears to be the first AR style rifle and fires approximately 10 rounds. At 26 seconds the video appears to be spliced as it shows a close-up image of an orange target with what appears to be

Range USA in the upper right corner, however part of the name is obscured. At 30 seconds the video appears to be spliced as **ABUAYYASH** is on the range again. In front of **ABUAYYASH** is a box of ammunition, a silver handgun and a magazine on the table. **ABUAYYASH** loads a magazine into a black handgun and fires approximately 8 rounds. At 46 seconds the video appears to be spliced as there is a black handgun with magazine on the table and the individual fires approximately 8 rounds. Still images from the video are included below. Contrary to the label on the video (and the stills below) which says “Airsoft gun TikTok,” based upon my training and experience with a variety of firearms as an FBI Special Agent, FBI Firearms Instructor and member of the FBI SWAT team for over 10 years, the guns that are depicted in below are firearms as defined by federal law and not airsoft guns.

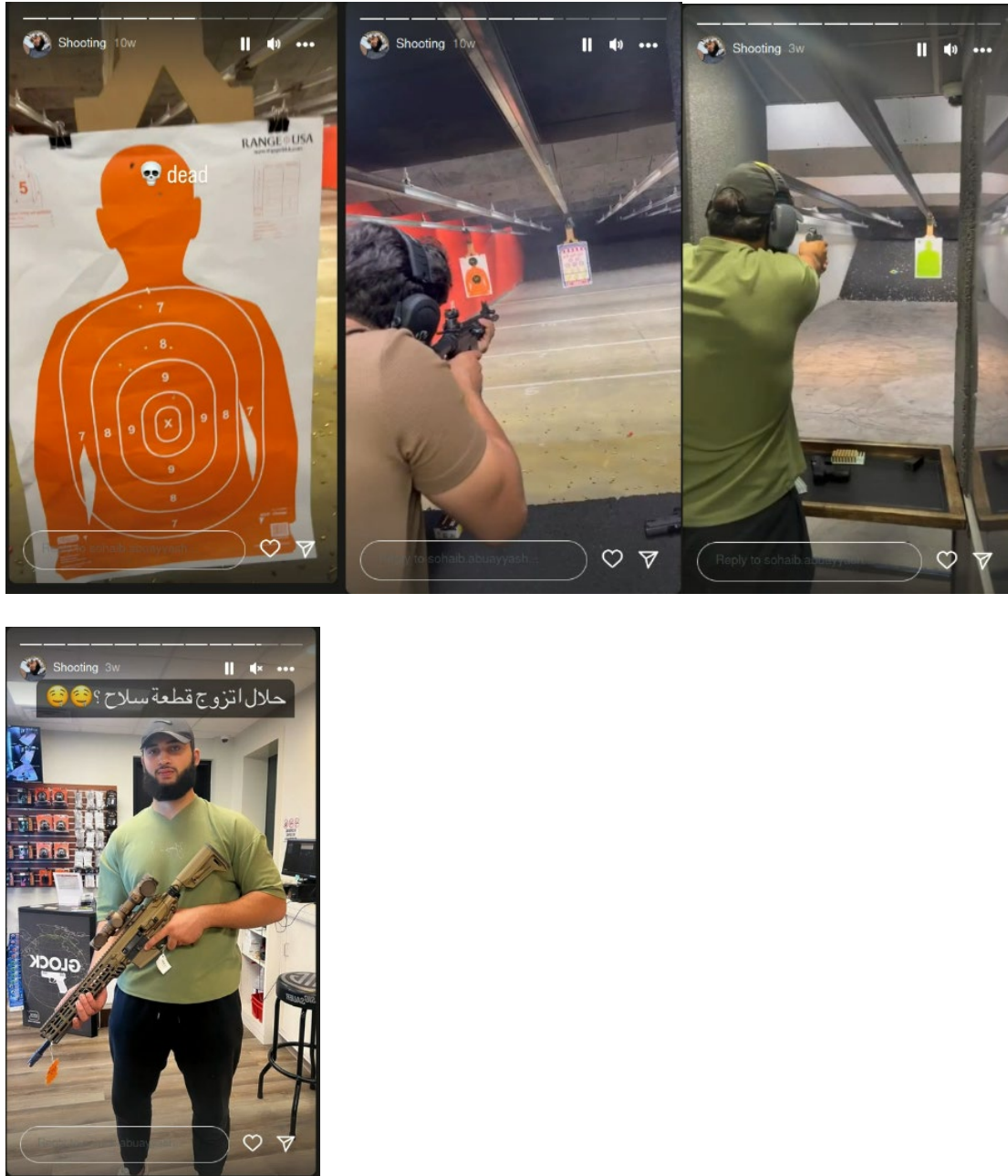




8. Open-source research conducted by the FBI on Instagram 2858 identified a video posted which is similar to the above-described video, however, there are 12 distinct segments spliced together. On this video, when the orange target is displayed, in the upper right corner is Range USA, www.rangeusa.com. At 1:33 **ABUAYYASH** is observed firing approximately 15 rounds with a third black AR style rifle which appears to be smaller caliber, possibly a .22 caliber. At 1:49 the video depicts the same individual however he is wearing a green shirt, black hat and black pants. **ABUAYYASH** is firing a handgun with an attached optic. A second handgun, open box of ammunition and a magazine is observed on the table. The individual fires approximately 7 rounds with the handgun. At 2:18 the video, this same individual is displayed in the green shirt, black hat and black pants holding a tan AR style rifle with price tags. Superimposed over

the image in Arabic writing it states, “Is it halal¹ to marry a piece of weapon?” The individual observed in these videos appear to match the Texas Driver’s License image of **ABUAYYASH**. Throughout this video, shots can be heard as he fires the weapons. Still images are included below.

¹ “Halal” is an Arabic term translated to “permissible.”



RANGE USA

9. On October 18, 2023, the FBI interviewed, Store Leader (hereinafter “Store Leader”), Range USA, 10310 Wortham Center Dr, Houston, TX 7706. “Store Leader” searched their systems by telephone number 7305 and provided a copy of a receipt for **ABUAYYASH** in which he purchased one hour of range time which was purchased by a debit card ending in 3558.

No other transactions were identified. Per Range USA policy, a first-time customer cannot rent a firearm from the store and is required to bring their own weapon. “Store Leader” reviewed video surveillance and provided the following sequence of events.

a. The video camera for the car lot front captured (insert captured instead of identified) a white mustang and a red vehicle park at or about 1:41 pm.

b. The video camera for the front store entrance captures images of **ABUAYYASH** and an individual “OR” enter the store at or about 1:44 pm. “OR” was carrying one rifle case and one duffel bag. “OR” was identified by the “Store Leader” from previous records maintained at the store.

c. The video camera at the counter for register 1 captures images of **ABUAYYASH** conducting the transaction at or about 1:47 pm and “OR” conducting the transaction at or about 1:53 pm.

d. The video cameras at lanes 1,2 and 3 captures images of both **ABUAYYASH** and “OR” enter the range at or about 2:15 pm.

e. The video cameras captures images of **ABUAYYASH** as he possessed and fires multiple AR (at least 2) platform rifles.

f. The video cameras captures images of **ABUAYYASH** as he possesses and fires multiple pistols (at least 2).

g. The video cameras at lanes 1, 2 and 3 captures images of **ABUAYYASH** exit the range at or about 3:04 pm.

h. The video camera at the front of the store captures images of **ABUAYYASH** exit the range at 3:05 pm.

i. The video camera for the car lot captures images of **ABUAYYASH** leaving in the red vehicle.

j. “Store Leader” further identified **ABUAYYASH** as wearing a brown shirt, gray sweat pants with pockets, white shoes, black hair and black beard. The description given by “Store Leader” matches the video of **ABUAYYASH** as described in paragraph 7. “Store Leader” further identified “OR” as wearing a white shirt, blue jeans, black shoes, black hair in a bun and black beard. “Store Leader” will furnish the video surveillance footage to the FBI.

SADDLE RIVER SPRING

10. Open-source research of the above-described video in paragraph 8 identified a probable location of the second gun range known as Saddle River Spring, located at 2920 Spring Cypress Road, Spring, Texas 77388. On October 18, 2023, the FBI interviewed the Assistant Manager at Saddle River Spring and a range officer (hereinafter “Range Officer”) at Saddle River Spring.

11. From a review of their records, the Assistant Manager showed that on or about September 17, 2023, AJ purchased a Canik/Century Arms Inc TP9 Elite SC handgun with optics, serial number 21CB21470 from Saddle River Spring. A copy of the ATF Form 4473 was provided.

12. A receipt was provided for a purchase on or about September 24, 2023, in which “AJ” was the primary shooter of “Pistol.” “MD” and **ABUAYYASH** were listed as additional shooters of “Pistol”. The total amount was \$36.80. The fee was for range rental. “AJ” paid for the range rental.

13. “AJ” was further identified from the ATF Form 4473 and records from the range as residing in Spring Texas, with an identified telephone number.

14. “MD” was further identified from records at the range as residing in Spring, Texas, with an identified telephone number.

15. **ABUAYYASH** was further identified as residing at [REDACTED], Cypress, Texas, 77429, telephone number [REDACTED]-7305.

16. A screen shot of the visit history for “AJ” lists a line item on September 24, 2023 at 11:13 AM for \$36.80. In addition, the visit history for “AJ” lists visits on September 03, 2023; September 10, 2023; September 17, 2023 and October 8, 2023.

17. Agents reviewed all video surveillance for September 24, 2023. The video surveillance of Lane 3 at 11:49:54 on September 24, 2023, shows 3 individuals: “MD”, **ABUAYYASH**, and “AJ”. **ABUAYYASH** is observed wearing a green shirt, black pants and a black hat; what appears to be the same outfit from paragraph 8. The video surveillance is facing the front of **ABUAYYASH**. Displayed on the table in front of **ABUAYYASH** is a black handgun, slide opened with an optic; a black handgun with the slide closed; 3 magazines; an open box of ammunition with approximately 40 rounds remaining; an open box of ammunition with approximately 10 rounds remaining and what appears to be a holster. At 11:49:53, **ABUAYYASH** is observed handing his cellular telephone “MD” who appears to be recording **ABUAYYASH** fire the handgun. At 11:49:55, **ABUAYYASH** is observed picking up the black handgun with optics, loading a magazine into the magazine well and chambering a round. **ABUAYYASH** is observed firing 9 rounds from the handgun (still image below). During each round fired, recoil is observed, muzzle flash is observed, and a casing is observed being ejected from the handgun. At 11:50:25, “MD” hands the cellular telephone back to **ABUAYYASH**. At 11:50:33 the target returns to **ABUAYYASH** then “MD” and “AJ” appear to congratulate

ABUAYYASH for his target. The target appears to be a human silhouette and multiple bullet holes can be observed in the target.



18. On October 19, 2023, "Range Officer" was telephonically interviewed. "Range Officer" retired after 30 years of service at Harris County Sheriff's Office. Since retiring, "Range Officer" briefly worked at Walmart as a gun sales associate. "Range Officer" has worked at either Texas Tactical or Range USA as a Range Officer since 2015. "Range Officer" personally owns a Canik Firearm and is very familiar with the look and operation of Canik Firearms. Canik

Firearms are known for their distinctive rounded back and the round indicator which indicates if the firearm is cocked. “Range Officer” considers himself highly knowledgeable about firearms after spending 38 plus years in law enforcement and firearms sales. After viewing a still image provided by the FBI “Range Officer” definitively stated the firearm is a Canik TP9 Elite SC, with an optic.

19. On October 19, 2023, a former Store Manager (hereinafter “former Store Manager”) of Saddle River Spring, was telephonically interviewed. “former Store Manager” assisted with the sale of the Canik/Century Arms TP9 Elite SC with an optic to “AJ.” “Former Store Manager” was provided a still image of **ABUAYYASH** obtained from video surveillance of Lane 3 at Saddle River Spring. “Former Store Manager” stated the firearm **ABUAYYASH** possessed is the same firearm sold to “AJ”, a Canik/Century Arms TP9 Elite SC with an optic.

20. On October 18, 2023, ATF provided a signed copy of a Report of Investigation for the Interstate Nexus to your affiant, Investigation Number: 782035-24-0006, completed by SS/A A.L. Parker II.

21. SS/A A.L. Parker II is currently employed as a Supervisory Special Agent. SS/A A.L. Parker II has been with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since May 2008. The majority of this time has been spent in the area of Federal firearms investigations. SS/A A.L. Parker II successfully completed the ATF Interstate Nexus School in June 2015.

a. On October 18, 2023, SS/A A.L. Parker II reviewed, from the ATF Form 4473, the following firearm’s serial numbers, names of the manufacturers, model, caliber or gauge, and also, when applicable, the importer. The firearm is described as follows:

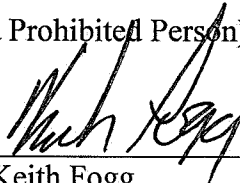
b. Exhibit a: Pistol, Canik, TP9 Elite SC, caliber 9x19, serial number 21CB21470. Manufactured in the Republic of Turkey.

c. The firearm was researched by referencing the Bureau of Alcohol, Tobacco, Firearms & Explosives list of firearm manufacturers and other industry related reference material which is widely known and used by both law enforcement and civilian firearms experts to obtain information about firearms and their respective manufacturers, including a firearm's place of manufacture and other matters of interest related to firearms. These references are routinely relied upon to determine the place of manufacture of firearms.

d. Exhibit "a" is a firearm as defined in Title 18, United States Code (USC), Chapter 44, Section 921(a)(3) and was not manufactured in the State of Texas. It is the opinion of ATF SS/A A.L. Parker II that if Exhibit "a" was received and/or possessed in the State of Texas, it traveled in or affected interstate and/or foreign commerce.


CONCLUSION

22. Based on the aforementioned factual information, your Affiant respectfully submits that there is probable cause to believe that **Sohaib S. Abuayyash** violated **18 U.S.C. §922(g)(5)(B)** (Possession of a Firearm by a Prohibited Person) as detailed above.



Keith Fogg
Federal Bureau of Investigation
Special Agent
Houston, Texas

Subscribed and sworn to TELEPHONICALLY on this 19th day of October 2023, at,
Houston, Texas.



Hon. Christina A. Bryan
United States Magistrate Judge